



U.S. Department
of Transportation

**Pipeline and
Hazardous Materials Safety
Administration**

901 Locust Street, Suite 462
Kansas City, MO 64106-2641

CERTIFIED - RETURN RECEIPT REQUESTED

August 2, 2006

Mr. Gary Loop
VP & Chief Operating Officer
Dakota Gasification Company
1600 East Interstate Avenue
Bismarck, ND 58503

CPF No. 3-2006-5039

Dear Mr. Loop:

On July 6, 2006, the Pipeline and Hazardous Materials Safety Administration (PHMSA), pursuant to Chapter 601 of 49 United States Code, sent Dakota Gasification Company (DGC) a letter advising you of a Notice of Probable Violation and Proposed Civil Penalty under **CPF No. 3-2006-5039**.

Later, on or about July 10, 2006, I talked to you by telephone and advised you that PHMSA was considering rescinding the above referenced letter and taking a different course of action and requested that you hold the July 6, 2006 letter pending our decision.

PHMSA has decided to rescind the July 6, 2006 letter and issue to DGC a Warning Letter. The new Warning Letter is being sent under **CPF No. 3-2006-5040W**.

Sincerely,

Ivan A. Huntoon
Director, Central Region
Pipeline and Hazardous Materials Safety Administration



U.S. Department
of Transportation

**Pipeline and
Hazardous Materials Safety
Administration**

901 Locust Street, Suite 462
Kansas City, MO 64106-2641

CERTIFIED - RETURN RECEIPT REQUESTED

August 2, 2006

Mr. Gary Loop
VP & Chief Operating Officer
Dakota Gasification Company
1600 East Interstate Avenue
Bismarck, ND 58503

CPF No. 3-2006-5039

Dear Mr. Loop:

On July 6, 2006, the Pipeline and Hazardous Materials Safety Administration (PHMSA), pursuant to Chapter 601 of 49 United States Code, sent Dakota Gasification Company (DGC) a letter advising you of a Notice of Probable Violation and Proposed Civil Penalty under **CPF No. 3-2006-5039**.

Later, on or about July 10, 2006, I talked to you by telephone and advised you that PHMSA was considering rescinding the above referenced letter and taking a different course of action and requested that you hold the July 6, 2006 letter pending our decision.

PHMSA has decided to rescind the July 6, 2006 letter and issue to DGC a Warning Letter. The new Warning Letter is being sent under **CPF No. 3-2006-5040W**.

Sincerely,

Ivan A. Huntoon
Director, Central Region
Pipeline and Hazardous Materials Safety Administration



U.S. Department
of Transportation

**Pipeline and
Hazardous Materials Safety
Administration**

901 Locust Street, Suite 462
Kansas City, MO 64106-2641

**NOTICE OF PROBABLE VIOLATION
AND
PROPOSED CIVIL PENALTY**

CERTIFIED - RETURN RECEIPT REQUESTED

July 6, 2006

Mr. Alan C. Lukes
VP & Chief Operating Officer
Dakota Gasification Company
1600 East Interstate Avenue
Bismarck, ND 58503

CPF No. 3-2006-5039

Dear Mr. Lukes:

On August 15-18, 2005, a representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA) pursuant to Chapter 601 of 49 United States Code, conducted an onsite pipeline safety inspection of your records and facilities at and near your plant in Beulah, North Dakota.

As a result of the inspection, it appears that you have committed probable violations, as noted below, of pipeline safety regulations Title 49, Code of Federal Regulations, Part 195. The items inspected and the probable violations are:

1. **§195.428(a) Overpressure safety devices and overfill protection systems.**

Except as provided in paragraph (b) of this section, each operator shall, at intervals not exceeding 15 months, but at least once each calendar year, or in the case of pipelines used to carry highly volatile liquids, at intervals not exceeding 7 ½ months, but at least twice each calendar year, inspect and test each pressure limiting device, relief valve, pressure regulator, or other item, of pressure control

equipment to determine that it is functioning properly, is in good mechanical condition, and is adequate from the standpoint of capacity and reliability of operation for the service in which it is used.

Dakota Gasification Company failed to inspect and test two compressor discharge relief valves at least once each calendar year.

In 2003 the annual inspection was missed on CO2 compressor discharge relief valve #PSV59486. In 2004 the annual inspection was missed on CO2 compressor discharge relief valve #PSV59186.

2. §195.406(b) Maximum operating pressure.

No operator may permit the pressure in a pipeline during surges or other variations from normal operations to exceed 110 percent of the maximum operating pressure.

DGC personnel set two compressor discharge relief valves at pressures higher than 110 percent of MOP.

During the 1/18/05 and 8/3/05 annual inspections of CO2 compressor discharge relief valve #PSV59-186, DGC personnel set the relief valve higher than 110 percent of MOP by 5 psi and 10 psi respectively.

During the 6/11/04 and 8/4/05 annual inspections of CO2 compressor discharge relief valve #PSV59-486, DGC personnel set the relief valve higher than 110 percent of MOP by 20 psi and 5 psi respectively.

DGC has provided documentation to PHMSA to confirm that both relief valves have since been reset to pressures that do not exceed 100 percent of MOP.

3. §195.420(b) Valve maintenance.

Each operator shall, at intervals not exceeding 7 ½ months, but at least twice each calendar year, inspect each mainline valve to determine that it is functioning properly.

Dakota Gasification Company failed to inspect MLV 2, 4 and 8 within the maximum 7 ½ month interval in 2003. The inspection intervals for these three valves were 9 1/2, 10 and 9 months, respectively.

Under 49 United States Code, §60122, you are subject to a civil penalty not to exceed \$100,000 for each violation for each day the violation persists up to a maximum of \$1,000,000 for any related series of violations. The Compliance Officer has reviewed the

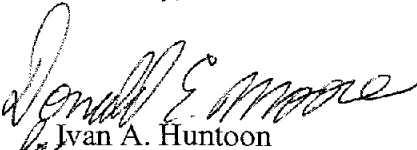
circumstances and supporting documentation involved in the above probable violation and recommends that you be preliminarily assessed a civil penalty of \$17,000 for Item 1.

For Items 2 and 3 we have reviewed the circumstances and supporting documents involved and have decided not to assess you a civil penalty. We advise you, however, that should you not correct the circumstances leading to the violation, we will take enforcement action when and if the continued violation comes to our attention.

Attached to and made a part of this Notice is a description of the available procedures for responding to this Notice. Please note that if you elect to make a response, you must do so within 30 days of your receipt of this Notice or waive your rights under 49 CFR 190.209. No response or a response which does not contest the allegations in the Notice authorizes the Associate Administrator for Pipeline Safety to find the facts to be as alleged herein and to issue appropriate orders. The 30 day period for response may be extended for good cause shown, and submitted within the original 30 day period.

Please refer to CPF No. **3-2006-5039** for any correspondence on this matter.

Sincerely,


Ivan A. Huntoon
Director, Central Region

Enclosure